

Tehan Woglake, Inc.

Lasting Connections: Tribal & Rural America

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November 12, 2010

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: Comment
Petition of Standing Rock Telecommunications, Inc.
For Reconsideration of Designation and Redefinition Order
WC Docket No. 09-197

Dear Commissioners:

I am writing to comment on the petition of Standing Rock Telecommunications, Inc. (SRTI).

I am the Chairman and CEO of Tehan Woglake (TW). *Tehan Woglake* is Lakota that translates as “far talking.” Our business objectives are to bring high speed broadband to all of Indian Country and its rural neighbors. I grew up in western South Dakota and I am a member of the Rosebud Sioux Tribe of South Dakota; a graduate of the University of South Dakota Business School and the University of Minnesota Law School. I have held senior executive positions with public and private firms with over 25 years of extensive experience with particular expertise in Tribal issues and policy.

Comments

I join SRTI in its concern about the portion of your Order that is inconsistent with relevant statutes, past Commission precedent, the Commission’s own *Indian Policy*,¹ and the Commission’s stated commitment to progressive policies respecting Tribal sovereignty. The North Dakota Public Service Commission was given ample notice by SRTI of both its ETC Petition and Rural Service Area Redefinition Petition and chose to not request nor expect to exercise any state jurisdiction with regard to the requested redefinition of wire centers within SRTI’s licensed service area within the Reservation. In fact, the North Dakota Commission filed no comments on the issue.

¹ *FCC Statement of Policy Establishing a Government-to-Government Relationship with Indian Tribes*. Pg 3, III. Reaffirmation Of Principles Of Tribal Sovereignty And The Federal Trust Responsibility. (June 23, 2000) (“*Indian Policy Statement*”) (emphasis added)

North Dakota's inaction is not surprising considering the language of 47 USC § 214(e)(6) exempting common carriers such as SRTI from state jurisdiction, and prior Commission precedent interpreting Section 214(e)(6) under similar. In addition, since the issuance of your order, I am aware that SRTI has received numerous communications from other Tribes who believe this decision is directly contrary to Commission policy and precedent, and expressing their great concern over this outcome.

The Commission's own *Indian Policy Statement* clearly recognizes that "Indian Tribes exercise inherent sovereign powers over their members and territory."² In order to respect the Tribe's "inherent sovereignty" over its own "territory," and be consistent with Standing Rock's Constitution and Treaty with the United States, the Commission's own *Indian Policy Statement*, the Congressional intent of 47 U.S.C. § 214(e)(5) & (6), and Commission precedent, the Commission must re-evaluate its interpretation of the statutes and regulations in a manner consistent with the Tribe's authority over its own lands. If the Commission does this it will inevitably lead to the conclusion to set aside North Dakota's objections and allow SRTI to move forward with its project.

To emphasize a settled area of the law, I call your attention to Rule 54.207(d)(1). This Rule must be applied in a way that is consistent with Congress' mandate under the statute applicable to "COMMON CARRIERS NOT SUBJECT TO STATE COMMISSION JURISDICTION":

Common carriers not subject to State commission jurisdiction -- In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each

² *FCC Statement of Policy Establishing a Government-to-Government Relationship with Indian Tribes*, at 3, III. Reaffirmation Of Principles Of Tribal Sovereignty And The Federal Trust Responsibility. (June 23, 2000) ("*Indian Policy Statement*"). (Emphasis added)

additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.³

Bottom line: in order for economic development in Indian Country to have a chance of succeeding in the long-term, the FCC must unequivocally exert its preemptive jurisdiction in favor of Tribes and Tribal entities consistent with statute, regulation and settled law.

Thank you for the opportunity to comment on these vital issues to Indian Country. I am willing to be of any additional assistance you may deem appropriate.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Valandra', with a stylized flourish at the end.

Joseph Valandra
Chairman & CEO

³ 47 U.S.C. § 214(e)(6).